

Farm Service Agency, USDA

§ 760.23

PAYMENTS TO MANUFACTURERS AFFECTED BY PESTICIDES

§ 760.20 Payments to manufacturers of dairy products.

An indemnity payment may be made to the affected manufacturer who is determined by the Deputy Administrator to be in compliance with all the terms and conditions of this subpart in the amount of the fair market value of the product removed from the commercial market because of pesticide residues, less any amount the manufacturer receives for the product in the form of salvage.

NOTE: Manufacturers are not eligible for payment when dairy products are contaminated by chemicals, toxic substances (other than pesticides) or nuclear radiation or fallout.

[43 FR 10535, Mar. 14, 1978, as amended at 47 FR 24689, June 8, 1982]

§ 760.21 Application for payments by manufacturers.

The affected manufacturer, or his legal representatives, shall file an application for payment with the Deputy Administrator, FSA, Washington, D.C., through the county office serving the county where the contaminated product is located. The application for payment may be in the form of a letter or memorandum. Such letter or memorandum, however, must be accompanied by acceptable documentation to support such application for payment.

§ 760.22 Information to be furnished by manufacturer.

The affected manufacturer shall furnish the Deputy Administrator, through the county committee, complete and accurate information sufficient to enable him to make the determination as to the manufacturer's eligibility to receive an indemnity payment. Such information shall include, but is not limited to:

(a) A copy of the notice or other evidence of action by the public agency which resulted in the product being removed from the commercial market.

(b) The name of the pesticide causing the removal of the product from the commercial market and, to the extent possible, the source of the pesticide.

(c) A record of the quantity of milk or butterfat used to produce the product for which an indemnity payment is requested.

(d) The identity of any pesticide used by the affected manufacturer.

(e) Such other information as the Deputy Administrator may request to enable him to make the determinations required in this subpart.

§ 760.23 Other requirements for manufacturers.

An indemnity payment may be made under this subpart to an affected manufacturer only under the following conditions:

(a) If the pesticide contaminating the product was used by the affected manufacturer, he establishes each of the following: (1) That the pesticide, when used, was registered and recommended for such use as provided in § 760.2(f); (2) that the contamination of his product was not the result of his failure to use the pesticide in accordance with the directions and limitations stated on the label of the pesticide; and (3) that the contamination of his product was not otherwise his fault.

(b) If the pesticide contaminating the product was not used by the affected manufacturer: (1) He did not know or have reason to believe that the milk from which the product was processed contained a harmful level of pesticide residue, and (2) the contamination of his product was not otherwise his fault.

(c) In the event that a manufacturer receives an indemnity payment under this subpart, and such manufacturer is later compensated for the same loss by the person (or the representative or successor in interest of such person) responsible for such loss, the indemnity payment shall be refunded by the manufacturer to the Department of Agriculture: *Provided*, That the amount of such refund shall not exceed the amount of other compensation received by the manufacturer.

[43 FR 10535, Mar. 14, 1978, as amended at 47 FR 24689, June 8, 1982; 51 FR 12987, Apr. 17, 1986; 52 FR 17935, May 13, 1987]